IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT APPEAL NO : 631 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21-12-2004 in WP NO : 23653 OF 2004 on the file of the High Court.)

Between:

A.P. State Housing Corporation Limited, rep. By its Managing Director, Urdugally, Himayatnagar, Hyderabad.

..... APPELLANT/2nd RESPONDENT

AND

1. B. Subrahmanyam, S/O. Bala Nagaiah, aged 51 years,

   Working as Work Inspector, (Incharge Asst. Engineer)

   O/o. AP State Housing Corporation Limited,

   Lakkireddypalli Section, Cuddapah District.

RESPONDENT/WRIT PETITIONER

2. The State of A.P. rep. By its Secretary,

   Housing Department, Secretariat Buildings, Hyderabad.

3. The District Collector and Executive Director of State Housing

Corporation Limited, Cuddapah.

.....RESPONDENTS/RESPONDENTS

Counsel for the Appellant: MR K. MOHAN RAMI REDDY

(SC FOR A P State Housing Corpn., Ltd.)

Counsel for the Respondent No.1 : MR. P. RAGHAVENDRA REDDY

Counsel for the Respondent Nos.2&3 : G.P for Housing.

This Court, at the stage of admission, made the following:

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JUDGMENT (per LNR J):

This writ appeal is filed by the A.P. State Housing Corporation Limited, assailing the order dated 21-12-2004 passed in W.P.No.23653 of 2004. One of the grounds urged on behalf of the appellant is that writ petition was disposed of at the admission stage and that neither the papers were served upon the learned Standing Counsel for the appellant nor his name was printed in the cause list.

2. Sri K. Mohan Rami Reddy, learned Standing Counsel for the appellant, submits that in the cause list of 21-12-2004 his name was not indicated against item No.22 and despite the same the learned single Judge proceeded as though the matter was argued by the Standing Counsel.

3. Sri P. Raghavendra Reddy, learned Counsel for the first respondent, on the other hand, submits that a set of papers was served on the Standing Counsel and the omission on the part of office to print the name of Standing Counsel cannot vitiate the order, as such. Both the counsel have addressed their arguments on merits also.

4. A perusal of the order under appeal discloses that the learned single Judge proceeded as though the matter was argued on behalf of the appellant herein and reference is made to the submissions on behalf of the respondents. The appellant filed a copy of the cause list of the concerned date. It discloses that the name of the Standing Counsel was not printed. It needs to be noted that the writ petition was disposed of at the admission stage and not after rule-nisi was issued to the

appellant. In that view of the matter, the grievance of the appellant cannot be brushed aside. We are, therefore, of the view that the writ petition was disposed of without giving an opportunity to the appellant herein.

5. The first respondent herein filed the writ petition assailing the proceedings dated 29-9-2004 in relation to his promotion to the post of Assistant Engineer. In the affidavit, filed in support of the writ petition, he has stated that aggrieved by the order, impugned in the writ petition, he filed an appeal before the Secretary, Housing Department, Government of A.P., and that it was still pending. Once the first respondent availed the remedy of departmental appeal, it is not open to him to file a writ petition and canvass the grievance against the order, which was appealed against.

6. For the foregoing reasons, the writ appeal is allowed and the order dt.21-12-2004 in writ petition No.23653 of 2004 is set aside. Further, we dispose of the writ petition with a direction to the second respondent to pass appropriate orders on the appeal preferred by the writ petitioner against the order dated 29-9-2004 within four weeks from the date of receipt a copy of this order. No costs.

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T. MEENA KUMARI, J

Dt. 6-4-2005

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L. NARASIMHA REDDY, J

Note:

Furnish C.C in (3) days.

B/o.

Kvrk

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT APPEAL NO : 631 of 2005

(Judgment of the Division Bench made by

the Hon'ble Sri Justice L. Narasimha Reddy)

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06th April 2004